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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Calaveras)**

In re E.C. et al., Persons Coming Under the
Juvenile Court Law.

C087466

CALAVERAS COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

(Super. Ct. Nos.
17JD5944, 17JD5945)

Plaintiff and Respondent,

v.

J.C.,

Defendant and Appellant.

Appellant J.C., father of the minors, E.C. and Em.C., appeals from the juvenile court's orders terminating parental rights and freeing the minors for adoption. (Welf. & Inst. Code, §§ 366.26, 395.)¹ His sole contention on appeal is that the notice and inquiry

¹ Undesignated statutory references are to the Welfare and Institutions Code.

requirements of the Indian Child Welfare Act (ICWA) were not met. (25 U.S.C. 1901 et. seq.) We find no error and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A detailed recitation of the facts is unnecessary to the resolution of this appeal.

Calaveras County Health and Human Services Agency (the Agency) filed a section 300 petition on behalf of the minors and their two half siblings (M.W. and V.S.)² on April 5, 2017. The social worker's detention report stated that "[i]n the previous dependency 13JD5394 and 13JD5395 a Notice of Child Custody Proceedings was sent out to the possible tribes identified as Klamath, Cherokee, and Blackfeet. It was determined at that time that the Indian Child Welfare Act did not apply."³ The social worker asked mother if she or appellant had any Indian heritage and mother responded that she was not aware of any such heritage.

At the detention hearing, the juvenile court inquired, "[t]o your knowledge do any of the four children have any Native American ancestry?" to which mother responded, "No." The juvenile court then inquired "[a]nd [father] do you have any Native American ancestry?" and father responded with a negative nod.

The juvenile court ultimately took jurisdiction, declared the minors dependents, removed them from parental custody, and ordered reunification services for both parents. Having failed to reunify, father appeals from the juvenile court's order terminating

² Half siblings M.W. and V.S. are not subjects of this appeal.

³ A subsequent status report indicates half sibling M.W. was the subject of a prior dependency case No. 13JD5393, which was subsequently dismissed with the minor's father awarded full physical custody. M.W., however, was in mother's custody at the time of removal in the instant case.

parental rights. He contends reversal and remand is required for further compliance with the ICWA.

DISCUSSION

The ICWA protects the interests of Indian children and promotes the stability and security of Indian tribes by establishing minimum standards for, and permitting tribal participation in, dependency actions. (25 U.S.C. §§ 1901, 1902, 1903(1), 1911(c), 1912.) The juvenile court and social services agencies have an affirmative duty to inquire at the outset of the proceedings whether a child who is subject to the proceedings is, or may be, an Indian child. (*In re Desiree F.* (2000) 83 Cal.App.4th 460, 469-470.) If, after the petition is filed, the court “knows or has reason to know that an Indian child is involved,” notice of the pending proceeding and the right to intervene must be sent to the tribe. (25 U.S.C. § 1912(a); § 224.2; Cal. Rules of Court, rule 5.481(b).) “Alternatively, if there is insufficient reason to believe a child is an Indian child, notice need not be given.” (*In re Shane G.* (2008) 166 Cal.App.4th 1532, 1538.)

Here, both mother and father were asked if they had Indian heritage and they both responded in the negative. Accordingly, as both parents denied Indian heritage, the need for further inquiry or notice under the ICWA was not triggered. (See *In re C.A.* (2018) 24 Cal.App.5th 511, 519 [ICWA duty satisfied after parent withdrew claim of Native American ancestry].)

Father contends ICWA notice was required because it was given in a previous dependency case involving half siblings M.W. and V.S. He speculates that E.C. was likely involved in the previous dependency case because there was a third minor involved and Em.C. was not yet born at the time. We note, however, that it is also possible the third minor in the previous case was unrelated to E.C. and Em.C. (such as a paternal half sibling of M.W. or V.S.). In any event, the “ICWA does not require further inquiry based on mere supposition.” (*In re K.M.* (2009) 172 Cal.App.4th 115, 119.) Moreover, the

ICWA was found not to apply in that case, so there was no conflicting information or information giving rise to the belief that the minors E.C. or Em.C. are Indian children. (Cf. *In re Gabriel G.* (2012) 206 Cal.App.4th 1160, 1167-1168 [when conflicting information about Indian ancestry is obtained, agency has duty to further investigate and resolve discrepancy].)

In sum, there was no reason for the juvenile court or the Agency to believe the minors are Indian children. Both parents denied Indian heritage and there was no other basis for believing E.C. or Em.C. might be Indian children. Accordingly, the juvenile court properly proceeded without further ICWA inquiry or notice.

DISPOSITION

The orders of the juvenile court (terminating parental rights) are affirmed.

BUTZ, J.

We concur:

HULL, Acting P. J.

DUARTE, J.